

# **DRAFT BYLAWS FOR THE URBAN FOREST ADVISORY COMMITTEE**

January 11, 2018

## **SECTION 1: AUTHORITY, TITLE AND ORGANIZATION**

1. The Encinitas Urban Forest Advisory Committee is established in accordance with Section 15.02.050 of the Encinitas Municipal Code. These Bylaws are governed by Section 15.02.050 and Section 2.30 Boards, Commissions and Committees as well as City Council Policies. In the event of a conflict between these Bylaws and Encinitas Municipal Code or Council Policy, Encinitas Municipal Code and Council Policy, in that order, shall control.
2. The official title of this Committee shall be "Encinitas Urban Forest Advisory Committee". The terms "Urban Forest Advisory Committee", "Committee", and "UFAC", where used in these Bylaws, refer to and mean the Encinitas Urban Forest Advisory Committee.
3. The powers and duties of the Encinitas Urban Forest Advisory Committee are set forth in Section 15.02.050 of the Encinitas Municipal Code.
4. The Encinitas Urban Forest Advisory Committee shall consist of a minimum of five members of the community with interest and expertise in urban forestry.
5. A quorum of the Committee shall consist of a majority of the seated members.
6. At the first regular meeting in September, or the next regular meeting afterward if no regular meeting is held the first meeting in September, the Committee will appoint from among its members a Chair. The term of this appointment shall end at the conclusion for the first regular meeting in September of the following year.
7. In the absence of the Chair at any meeting, the Committee shall appoint a Chair pro-tern to conduct that meeting. In the absence of the Chair, the City Arborist or Committee Secretary shall call the meeting to order and immediately call for a motion to select a Chair Pro Tern.
8. The City Manager, or his or her designee, shall appoint a City staff member who serves as the Secretary to the Committee. The Secretary may, in performance of his or her duties, appoint a Deputy Secretary to perform the secretarial function for the Committee in his/her absence.

## SECTION 2: DUTIES OF MEMBERS

1. It shall be the duty of each member to:

- A) Attend all meetings of the Committee.
- B) Act upon any committee to which appointed and report and prepare finding with the assistance of the City staff as from time-to-time may be required by the Chair.
- C) Become properly informed concerning the Municipal Tree Ordinance, Urban Forest Management Program Policy, Urban Forest Management Program Administrative Manual, Master Species List, and other pertinent documents as determined by the City Arborist.
- D) Be discreet in the discussion of pending matters outside regular or special meetings of the Committee and make no prejudicial comment in advance of official action of the Committee.
- E) Refrain from suggesting or directing changes or modifications during any communication with the applicant (or applicant representative) outside the context of a meeting of the Committee. UFAC members may not meet with an applicant, applicant representative or any other stakeholder, including but not limited to property owners, neighboring residents, neighboring businesses, etc. All ex parte communications must be disclosed at the beginning of the hearing.
- F) UFAC members shall notify the Secretary if they will be absent or late to a meeting as soon as practicable.
- G) A Committee member shall not purport to represent the whole of the Committee unless authorized to do so by the Chair, or decision of the Committee.
- H) UFAC members will not hold serial meetings to develop a collective concurrence as to action, per the Brown Act.

## SECTION 3: RESPONSIBILITIES OF CHAIR

1. The Chair shall preside at and conduct all meetings of the Committee, administer all rules of the Committee, and rule upon motions, resolutions, or other business transacted by the Committee. The Chair may appoint such subcommittees from among the members of the Committee as may be necessary to conduct the business and pursue the program and purposes of the Committee. Subcommittees shall not constitute a quorum.

2. The Chair shall, when called upon, represent or appoint one of the members to represent the Committee before the City Council or Planning Commission. Such representation shall reflect the view of the majority of the Committee on any particular matter upon which the Committee has acted.

#### SECTION 4: DUTIES OF SECRETARY - OFFICIAL PAPERS AND MEETING MINUTES

1. The Secretary is responsible for the preparation of meeting minutes of each meeting to report all actions and a brief account of the facts pertinent to the actions. Meeting minutes shall be prepared as expeditiously as possible and furnished to members of the Committee with distribution of agenda materials.
2. The Secretary shall have the authority to certify any action taken by the Committee as recorded in the meeting minutes of the Committee or which is otherwise documented. Such certification shall constitute the official reporting by the Committee to fulfill all requirements of law excepting any law, rule, or request of the Committee that requires the signature of the Chair of the Committee.
3. The Secretary shall, make his or her best efforts, to provide to each member all supporting information, and meeting minutes of the previous meeting, not less than three (3) calendar days prior to the day of the meeting.

#### SECTION 5: DUTIES OF THE CITY ARBORIST

1. The City Arborist will serve as the City's expert and advise the City on urban forestry matters and hold responsibilities listed in Section 15.02.040 of the Encinitas Municipal Code. The City Arborist serves as staff to the UFAC.
2. The City Arborist is authorized to draft or sign correspondence for the Committee, as authorized by the Committee. The Chair may also prepare letters, memoranda and other correspondence at the direction of the Committee.
3. The City Arborist shall provide an orientation for new UFAC members as soon as possible following appointment by the City Council.

## SECTION 6: POLICIES AND PROTOCOLS FOR URBAN FOREST ADVISORY COMMITTEE MEETINGS

### 1. Placing Items on a Urban Forest Advisory Agenda

To establish the procedures by which items are added to the UFAC agenda when requested by Committee members, staff, or the public.

#### A. To Add Item during a Meeting to that Meeting's Agenda

To add an item to a meeting in progress, the Brown Act requires 4/5th of the Committee (or five if there are only five present) to find that the item came to the City's attention during the previous 72 hours and there is a need to take emergency action before the Committee's next meeting.

#### B. To Add an Item during a Meeting to a Future Agenda

1. The Chair gives an express, oral direction to the Secretary. If a Committee member disagrees with the Chair's direction to the Secretary, the Committee member can make a motion to vote on the addition. The vote is without the Committee's discussion of the merits of the item or the basis of the request.
2. At the request of a Committee member, with the support of a second Committee member, an item will be placed on a future agenda.
3. Requests from members of the audience, after being authorized to speak, may be considered under the "Future Agenda Items Added by the Urban Forest Advisory Committee" section of the agenda at the initiation of a Committee member with the support of a second Committee member.
4. The Chair may, with support of the majority of the UFAC, refer items to a Commission or Committee for further review.

#### C. Urban Forest Advisory Committee Initiated Agenda Item

1. The Chair, or a Committee member, with support of a second Committee member, may add an Urban Forest Advisory Committee Initiated Agenda Item to an UFAC agenda.
2. UFAC Initiated Items are prepared by the requesting Committee member and require no staff time.

3. UFAC Initiated Items must be submitted to the City Arborist no later than noon the Wednesday of the week prior to the next UFAC meeting and are not reviewed by the Secretary prior to submission to the UFAC Secretary.

D. Process for Developing Agendas

1. The Secretary is authorized to place items on agendas that are generated by City administrative requirements, laws, or City ordinances.

E. List of Pending Agenda Items

1. The City Arborist, with copy to secretary, will maintain a list of pending agenda items that have been requested and agreed to, but have not yet been scheduled.
2. The list will be included in "Future Agenda Items" of the UFAC agenda with the City Arborist's best estimate of when the item is likely to come before the Committee.

F. Removing or Continuing Items on the Agenda

1. An item shall be pulled from the agenda under "Changes to the Agenda" if a technical flaw, including but not limited to a flawed public notice, or other issues which prevent a complete discussion of the item have been identified per the Chair or City Arborist, is identified.
2. A duly noticed item may be continued to a date certain or uncertain, if additional time is requested to address issues raised by staff or the applicant. An applicant may also request a continuance to a date certain if only the minimum quorum is present for the hearing. This shall occur under "Changes to the Agenda" when the need for a continuance is known at or before the beginning of the meeting.

SECTION 7: URBAN FOREST ADVISORY COMMITTEE MEETING PROCEDURES

It is the intent of the Urban Forest Advisory Committee that rules be established for the management of UFAC meetings to ensure compliance with relevant laws and to conduct the public's business in an open, transparent, and efficient manner. The Urban Forest Advisory Committee strives to ensure that business requiring UFAC deliberation and action is given priority in the planning and conduct of UFAC meetings, and that the public has the opportunity to make comments and provide input on any item of interest.

#### A. Urban Forest Advisory Committee Members' Rules of Procedure

1. Procedural Rules: All meetings of the Committee shall be conducted in an orderly manner designed to expedite the business of the UFAC. Robert's Rules of Order will be used as a guide to resolve questions of parliamentary procedures.
2. Action of Urban Forest Advisory Committee: The Committee shall act by motion, motion to adopt resolution or motion, or may give direction to staff by consensus (minute order). Minimum quorum is required for a motion to be approved.
3. Rules of Debate: Debate upon all matters pending before the Urban Forest Advisory Committee shall be under the direct supervision of the Chair and conducted in such a manner as to expedite the business of the Committee, subject to the procedural rules of the Committee and Robert's Rules of Order.
4. Electronic Devices: The use of electronic devices for communication by the Committee members at the dais during UFAC meetings is prohibited (e.g., mobile phones, smart phones, tablets for e-mailing, text messaging, etc.) The limitation shall not apply to receipt of electronic communications in the event of an urgent family or personal matter. If, in the opinion of the Chair, a Committee member's use of an electronic device is disruptive to the Committee deliberations or disrespectful to the public, the Chair may request that the Committee member cease his or her use of such device. UFAC members may use a tablet or laptop computer at the dais to view the electronic/digital agenda packet for that meeting and any official, public document posted or linked on the Encinitas Urban Forest Advisory Committee website.
5. Remarks by Urban Forest Advisory Committee members: Upon recognition by the Chair, the Committee member shall confine remarks to the item under consideration, avoiding remarks regarding the personalities involved and avoiding indecorous language. A Committee member, once recognized, shall not be interrupted when speaking unless it is to call him/her to order. If an Committee member while speaking is called to order, the Committee member shall cease speaking until the question of order is determined.
6. Abstention Votes: Unless a member of the UFAC audibly votes in the negative, silence shall be recorded as an affirmative vote. An abstention shall be recorded as a vote with the majority. The Committee member abstaining may state a short sentence explaining the reason for abstaining and this sentence shall be included in the meeting minutes. (This assumes that the abstentions are not due to a conflict of interest. In a conflict of interest, the conflicted Committee member leaves the room and is considered absent for purposes of both a quorum and a vote.)

7. Recusal: Any Committee member who has, or believes they have the appearance of, a conflict of interest on any item shall state at the beginning of the hearing that they are recusing themselves for that item, briefly explain the reason for the recusal, and shall leave the meeting room immediately and shall not be included in the vote tally. Identifying a potential issue in the interest of transparency but for which the Committee member states will not affect their impartiality and does not conflict with the Brown Act, Encinitas Municipal Code or Council Policy may make a disclosure and affirmative statement of impartiality rather than recuse. If an objection to that Committee member's continuing participation in the item is raised by another Committee member or, during the public hearing, a member of the public, the Chair shall refer the concern to counsel for advice on how to proceed. If the matter involves the Chair, then a majority of the UFAC will determine how to proceed.
8. Teleconferencing: Teleconferencing may be allowed at the discretion of the Chair and shall comply with associated Government Code regulations.
9. Tie Votes: A motion fails on a tie vote. Identical or similar motions that result in repeated tie votes should be avoided so that the Committee can come to a decision. The Committee may continue an item once if it remains deadlocked, provided it articulates potential solutions or needs for more information such that further consideration of the project may occur at the subsequent continued public hearing. If the deadlock remains, the City Arborist will propose a motion to the Chair to introduce to facilitate the Committee reaching a decision.
10. Continuances. The Committee may continue an item for any reason, provided the Committee states the reasoning for the continuance, which must include an explanation for why the continuance would potentially enable the Committee to obtain the additional information or project revisions they may need to reach a decision at the subsequent continued hearing date. Examples include but are not limited to a lack of remaining meeting time, request for more information and request for an applicant to make revisions to the project resulting from the public hearing. It is the Chair's discretion whether to ask the applicant for a voluntary continuance. The Chair will consult with the City Arborist about whether to continue to a date certain or uncertain.

B. Citizen Participation in Urban Forest Advisory Committee Meetings Communication

1. At each regular UFAC meeting up to 30 minutes shall be reserved for Oral Communications subject to Urban Forest Advisory Committee approval to allow for additional time, which may be placed at end of agenda.

2. The purpose of oral communications is to bring to the attention of the Committee a matter or matters which do not appear on the agenda. Remarks shall be addressed to the Committee as a body and not to any member of the Committee, staff or the public. State law prohibits UFAC action on non-agenda items because the public would be unaware prior to the meeting of any potential action. If needed, Oral Communication items will be referred to the Secretary either for resolution by administrative action or placement on a future agenda by the Chair or at the request of at least two Committee members.
3. Oral Communication speaker's slips will be available at the back of the meeting room to be filled out indicating a person's wish to address the Committee under the agenda title "Oral Communications" and the subject on which the person wishes to speak. The slips will be accepted by the City Arborist in the meeting room no earlier than 30 minutes before the start of the meeting. All oral communications speaker slips must be received by the City Arborist by the start of oral communications.
4. The City Arborist will review the slips and will inform the Chair of the number of slips. If the number of speakers, at three minutes each, exceeds the 30 minute allotted time for Oral Communications, the Chair, in consultation with the Committee, will determine the time allotted per speaker, extension of Oral Communications time, or continuation of remaining speakers to the end of the meeting.
5. Donations of time from one speaker to another speaker will not be permitted in Oral Communications.
6. Only the Chair shall respond to a speaker during Oral Communications. Discussion is not allowed under law. If a Committee member has a valid question to clarify the issue, the question will be directed through the Chair.

C. Public Comment on Agenda Items

1. The public is allowed to comment on items which appear on the agenda.
2. Speaker slips will be available in the back of the meeting room to be submitted by persons wishing to speak on an agenda item. The normal time allowed for a person to speak will be three minutes. Donation of time from one person to the person speaking on the item will be permitted with up to two time donations for a maximum of 9 minutes. The donor(s) must be present. The Chair shall have the authority, with Committee consensus, to reduce equally each speaker's time to accommodate a larger number of speakers, or to limit the total speakers' time on an agenda item.



3. Speaker slips for agenda items will be accepted by the City Arborist in the meeting room no earlier than 30 minutes before the meeting and up until the public testimony on the item is finished. Included on the speaker slip shall be the option for an individual to register support or opposition but do not wish to speak (individual must be present).
4. Remarks shall be addressed to the Committee as a body and not to any member of the Committee, staff or the public. No person shall enter into a discussion without the permission of the Chair. No questions shall be asked of an Committee member or staff member except through the Chair. The Chair may limit interaction between UFAC members and public speakers to questions of clarification.
5. If there is a group representing a common position, designation of a spokesperson is encouraged. The Chair may allot a fixed amount of time for presentations of this nature, which is commonly 10 minutes.
6. Outside presentations shall be limited to 5 minutes maximum unless additional time has been requested through and approved by the Chair.

D. Written Communications

1. Per Government Code Section 54957.5, any agenda related writings received by a majority of the Committee within 72 hours before a regular meeting, must be distributed to all the Committee members and a copy placed in the designated binder in the lobby. However, it is the City's practice to distribute all written correspondence received by any one Committee member to all UFAC members and correspondence pertaining to an agenda item, is also placed in a binder in the lobby.
2. Written communications may also be presented to the City Arborist at UFAC meetings, as part of the record of the meeting and for distribution to the Committee.
3. Written communications submitted after the agenda packet is posted, but before the meeting begins, will be provided to the Committee at the beginning of the meeting.
4. Written correspondence directed to the Committee that is received prior to an agenda packet being posted shall be held by the Secretary and included for UFAC review as part of the agenda packet.

#### E. Meeting Minutes

1. The UFAC Secretary is instructed to prepare action minutes for each Committee meeting. The UFAC Secretary shall add a brief description/topic for oral communication speakers, add any staff direction to the minutes that was a result of oral communication requests and note whether the speaker was speaking in favor or opposition to agenda items.

#### F. General Meeting Rules

The Committee is pleased to have people attend Committee meetings to participate in their local government. The following rules are established in order to insure an orderly meeting where all can exercise their rights of free speech:

1. No smoking, including electronic vapor inhalation devices.
2. No alcohol.
3. Signs limited to 8-1/2" X 11" or smaller flexible paper without rigid support (due to safety concerns).
4. To assure that every speaker is listened to in a respectful manner, cheering, shouting or disruptive behavior shall not be tolerated. The Chair may direct appropriate remedial action if necessary.
5. In the interests of saving time, the Committee requests that the audience refrain from clapping for speakers.
6. No pets are allowed in meeting room. Service animals are permitted.
7. Disruptive or unruly attendees may be removed from the Council Chambers to the extent consistent with the Brown Act and applicable law or case law.

#### I. Public Communication Guidelines

1. Welcome to our Urban Forest Advisory Committee meeting. When addressing the Committee, please:
  - Address the Committee as a body, not individuals
  - Clarify your goal/purpose at the outset
  - Respect the three-minute time limit-stop at the buzzer
  - The Committee may ask questions for clarification

- No dialogue with Committee members during oral communications
- Be courteous, professional and respectful

#### SECTION 8: REGULAR MEETING SCHEDULE AND TIME LIMITS

1. The Committee's regular meetings are scheduled for every second Thursday, beginning at 5:30 p.m. in the Encinitas City Hall. Special meetings may be called as needed, pursuant to the Government Code and Brown Act.
2. The Committee must move to extend the meeting beyond two hours of the meeting start time.

#### SECTION 9: ACTIONS OF THE URBAN FOREST ADVISORY COMMITTEE

1. Findings, supported by evidence, must be made for UFAC actions on quasi-judicial and legislative matters. Conditions and mitigation measures may be imposed to bring a project into full compliance with requirements or lessen potential impacts.
2. Actions made by the Committee can be voted to be brought back again to reconsider within a limited time after an action has been made – either on the same day or the next day within a session. The original vote is suspended until the motion to reconsider is disposed of or lapses. The motion to reconsider may be made only by a member who voted on the prevailing side in the original vote.
3. Actions made by the Committee can be rescinded to change action that was taken, requiring a two-thirds vote unless all Committee members who voted the motion to be rescinded or amended are present or have received amply notice. Motions to rescind or reconsider are subject to the procedural rules of the Committee and Robert's Rules of Order.

#### SECTION 10: ORDER OF BUSINESS FOR REGULAR MEETING

1. The following is the standard order of the agenda. The Chair may alter the agenda order.
  - Call to Order / Introductions
  - Oral Communications
  - Approval of Minutes

- Agenda
  - Future Agenda Items Added by Urban Forest Advisory Committee members
  - Adjournment
2. For an item docketed from the outset to be continued or removed from the agenda, no public testimony will be taken on that item.

#### SECTION 11: CONDUCT OF COMMITTEE MEMBERS

1. The following guidelines apply to the conduct of Urban Forest Advisory Committee members:
  - Articulate own perspective with respect
  - Focus on making "informed decisions"
  - Stay on topic - current agenda item
  - Ask questions for clarification-clarify the facts
  - Acknowledge legitimate disagreement
  - Respect the majority opinion
  - Be courteous, professional and respectful
  - Engage in respectful civil discourse and recognize that a difference of opinion and disagreement about conclusions reached is normal and acceptable